

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**F.A.O No. 8458 of 2015
Date of decision:- 08.08.2019**

Parmal and ors. ...Appellants

Versus

Subhash Chand & ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') to the tune of Rs.24,35,000/- vide impugned award dated 06.07.2016 on account of death of Krishan Kumar.

2. As per claimants, on 29.04.2014, Churia Ram and the deceased-Krishan Kumar were coming from their village Kheri Sheru to Friends Colony Kaithal in a Maruti Car (Ritz) bearing registration No. HR08-N-5551. Krishan Kumar was driving the car and at about 12 P.M in the night, when they reached in front of Dhau Filling Station, Kaithal, an Eicher Canter bearing registration No. HR69-C-3709 driven by respondent No. 1 in rash and negligent manner, came from opposite side and struck against the car after coming on wrong side. As a result of impact, Krishan Kumar received grievous injuries. He was taken to General hospital, Kaithal from where he was referred to PGI, Chandigarh and on 30.04.2014, he succumbed to his injuries. F.I.R No. 90 dated 30.04.2014 under Sections

279/337/304-A IPC was registered against respondent No. 1 at P.S. Civil Lines, Kaithal against respondent No. 1 on the statement of Churia Ram.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.20000/- per month and 1/4th was deducted towards personal expenses and thereafter, applied the multiplier of 13, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** Rs.20,000/- were awarded towards funeral expenses and Rs.70,000/- towards loss of consortium. The total compensation awarded to the claimants was Rs.24,35,000/-.

4. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, as the Tribunal has not awarded future prospects.

5. On the other hand, the learned counsel for the respondent-driver has vehemently opposed the present appeal and submits that the claimants have been awarded in excess under conventional heads.

6. I have heard learned counsel for the parties and perused the record.

7. It is not in dispute between the parties that the accident had taken place, as the accident had been duly proved by the claimants/appellants. Further the parents are also entitled for compensation of Rs.40,000/- each under the head of loss of filial consortium, in view of judgment of Hon'ble the Supreme Court of India in a case of ***Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram, 2018 (4) RCR Civil 837***. This judgment has further been followed by Hon'ble the Supreme Court in a case of ***Sebastiani Lakra vs National Insurance***

decided on 12.10.2018.

8. Reference at this stage can be made to a recent judgment of Hon'ble the Supreme Court of India in a case of ***National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017*** wherein the issue with regard to awarding of amount under the conventional heads has been authoritatively decided, while observing as under :-

“54. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh. It has granted Rs. 25,000/- towards funeral expenses, Rs. 1,00,000/-loss of consortium and Rs. 1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and

courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”.

9. In the present case, the compensation is being reassessed as per the judgments mentioned above:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.20000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.20000+Rs.8000=Rs.28000/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.28000-Rs.7000=Rs.21000/- per month
(iv)	Compensation after multiplier of 13 is applied	Rs.21000X 12 X 13= Rs.32,76,000/-
(v)	Conventional heads (Loss of estate and funeral expenses, loss of consortium)	Rs.70,000/-
(vi)	Loss of filial consortium (parents)	Rs.80,000/-(Rs.40,000/- each)
(vii)	Loss of consortium (children)	Rs.80,000/-(Rs.40,000/- each)
(viii)	Total Compensation awarded	Rs.35,06,000/-
	Enhanced amount of compensation	3506000-2435000=Rs.10,71,000/-

10. The enhanced amount of compensation of Rs.10,71,000/- shall be payable within a period of forty five days from the date of receipt of

certified copy of this order. The appellants shall also get interest @ 9% in view of judgment of Hon'ble the Apex Court in Civil Appeal No. 4528-2019 titled as *Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019*. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

11. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

08.08.2019
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No